

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

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VIRIDIAN SPIRITS LLC :  
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 Plaintiff :  
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 v. : Civil Action No.: 07 CV 7113  
 : Judge ~~Grady~~ Shadun  
 : Magistrate Judge Keys  
 NEW HOLLAND BREWING COMPANY LLC :  
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 :  
 Defendant :  
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AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

FINDINGS OF FACT

I. Parties

1. Plaintiff Viridian Spirits LLC ("Viridian") is a New York limited liability company with a place of business at 135 E. 57<sup>th</sup> Street, 10<sup>th</sup> Floor, New York, NY 10027.

2. Defendant New Holland Brewing Company LLC ("New Holland") is a Michigan limited liability company with a place of business at 64 East 8<sup>th</sup> Street, Holland Michigan 49423.

II. Viridian's Business and Trademarks

3. Viridian manufactures, distributes, and sells alcoholic beverages under the trademark LUCID (the "LUCID Mark").

4. Viridian's LUCID brand absinthe was presented at trade shows in April of 2007 and sold commercially in June of 2007.

5. On May 30, 2006, Viridian filed a United States trademark application for the LUCID Mark, Application Serial No. 78/896,353 for "alcoholic beverages, namely absinthe." Registration issued on December 4, 2007, under Registration No. 3,350,254.

6. Currently, Viridian is selling LUCID brand products in interstate commerce, including in this judicial district.

7. Through extensive promotion, sales, and third party media attention, Viridian has developed substantial goodwill, consumer recognition, and value in its LUCID trademark.

### **III. Defendants' Activities**

8. On or about April 2, 2007, New Holland began distributing and selling beer under the name LUCID.

9. New Holland's use of the LUCID name in connection with beer was, and is, without Viridian's consent or permission.

10. New Holland has distributed, offered for sale, and sold its LUCID beer product in interstate commerce, including within the State of Illinois and this Judicial District.

### **CONCLUSIONS OF LAW**

11. This Court has jurisdiction over the subject matter of all counts of this action and over all the parties hereto.

#### **A. Trademark Infringement and Unfair Competition**

12. New Holland denies that any of its acts were willful.

#### **B. Order Granting Injunctive Relief**

Judgment is entered in favor of Viridian and against New Holland as follows:

(1) As of January 17, 2008, New Holland and its respective successors, assigns, affiliates, agents, servants, employees and representatives, and all persons, firms and corporations in active concert or participation with New Holland who receive notice hereof, are hereby immediately and permanently enjoined and restrained from

(a) shipping beer into the state of Illinois under the trademark LUCID,  
and

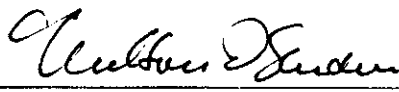
(b) packaging any beer into containers or other packaging that bears the trademark LUCID.

(2) As of February 15, 2008, New Holland and its respective successors, assigns, affiliates, agents, servants, employees and representatives, and all persons, firms and corporations in active concert or participation with New Holland and with whom New Holland has actual knowledge and control over, who receive notice hereof, are hereby immediately and permanently enjoined and restrained from directly or indirectly manufacturing, distributing, offering for sale, advertising, selling, or otherwise using or exploiting any alcoholic beverage under the trademark LUCID or any other product that would infringe the LUCID Mark, and specifically enjoined from manufacturing, distributing, offering for sale, advertising, selling, or otherwise using or exploiting its LUCID brand beer.

(3) This is a final and binding judgment as to the claims and defenses presented in this action.

(4) This Court will retain jurisdiction over this action and the parties, including without limitation for motions seeking contempt for breach of this Agreed Final Judgment and Permanent Injunction.

SO ORDERED, this 21 day of <sup>May</sup>~~April~~, 2008.

  
JUDGE ~~JOHN E. GRADY~~ MILTON I. SHADUR  
United States District Court Judge

AGREED:

VIRIDIAN SPIRITS LLC

By: 

Jared Gurfein, President & CEO

NEW HOLLAND BREWING COMPANY LLC

A handwritten signature in black ink, appearing to read 'Brett VanderKamp', is written over a horizontal line.

By: Brett VanderKamp

Title: President